Senate Bill 989 (Sher) Chapter 812
Extension of the Underground Storage Tank Fee

Effective January 1, 2000. Amends Section 15399.10, 15399.11, 15399.14, and 15399.17 of, amends and renumbers Section 15339.19 of, adds Sections 15399.15, 15399.15.1, and 15399.15.2 to, and adds and repeals Section 65964 of, the Government Code, amends Sections 25288, 25299, 25299.37.1, 25299.51, 25299.52, 25299.57, 25299.59, 25299.81, 25299.94, and 25299.99.2 of, and adds Sections 25284.1, 25292.4, 25299.18, 25299.38.1, 25299.99.3, 43013.1, and 43013.3 to, and repeals and adds Section 43830.8 to, the Health and Safety Code, adds Section 25310.5 to, and adds and repeals Section 21178 of, the Public Resources Code, and amends Section 13752 of the Water Code.

Changes the sunset date of the underground storage tank fee from January 1, 2005 to January 1, 2011.

This bill also extends the annual transfer of $5 million from the Underground Storage Tank Cleanup Fund to the Drinking Water Treatment and Research Fund from January 1, 2002 to January 1, 2010.

Sponsor: Senator Byron Sher

Law Prior to Amendments:

Under existing law, Section 25299.41 of the Health and Safety Code requires every owner of an underground storage tank to pay a storage fee of six mills ($0.006) for each gallon of petroleum (including both gasoline and diesel) placed in an underground storage tank which he or she owns. Section 25299.43 imposes an additional fee of six mills ($0.006) for a total underground storage fee of twelve mills ($0.012) per gallon. The fees, which are reported and paid to the Board of Equalization, are deposited into the Underground Storage Tank Cleanup Fund and are earmarked for the cleanup of leaking tanks. This fee is due to sunset on January 1, 2005.

Operative June 30, 1999, Section 25299.99.1 of the Health and Safety Code requires the annual transfer of $5 million from the Underground Storage Tank Cleanup Fund to the Drinking Water Treatment and Research Fund created by Section 116367 to be expended if a public drinking water well has been contaminated by an oxygenate and there is substantial evidence that the contamination was caused by a release

from an underground storage tank. This article contains a sunset date of effective January 1, 2002.

Background:

On March 25, 1999, Governor Davis signed Executive Order D-5-99 relative to current issues surrounding the environmental effects of the oxygenate methyl tertiary-butyl ether (MTBE) in gasoline. Among other things, the Executive Order directs:

- the California Energy Commission, in consultation with the California Air Resources Board, to develop a timetable by July 1, 1999 for the removal of MTBE from gasoline at the earliest possible date, but not later than December 31, 2002.
- the State Water Resources Control Board, in consultation with the Department of Health Services, to develop a clear set of guidelines for the investigation and cleanup of MTBE in groundwater at prioritized groundwater recharge areas and aquifers that are most vulnerable to contamination by MTBE and prioritize resources towards protection and cleanup.
- the State Water Resources Control Board to seek legislation to extend the sunset date of the Underground Storage Tank Cleanup Fund to December 31, 2010 and increase the reimbursable limits for MTBE groundwater cleanup from $1 million to $1.5 million.

Comments:

1. **Purpose.** This bill is intended to enact into statute Executive Order D-5-99 issued by Governor Davis on March 25, 1999, and also enact several other provisions designed to protect groundwater and drinking water from MTBE contamination.
2. **The Governor's order was based on recent environmental risk studies.** Senate Bill 521 (Mountjoy, Ch. 816, 1997) required the University of California to prepare and submit to the Legislature and the Governor a study and assessment of human health and environmental risks and benefits associated with the use of methyl tertiary-butyl ether (MTBE), as compared to ethyl tertiary-butyl ether (ETBE), tertiary amyl methyl ether (TAME) and ethanol, in gasoline. One of the findings of the study was that there are significant risks and costs associated with water contamination due to the use of MTBE. They found that MTBE is highly soluble in water and will readily transfer to groundwater from gasoline leaking from underground storage tanks, pipelines and other components of the gasoline distribution system. The extension of the underground storage tank fee is intended to provide funds to address these environmental issues beyond the year 2005.

3. **Extension of the underground storage tank fee would not create administrative problems for the Board.** It should be noted, however, that the underground storage tank fee program has created problems for some uninformed tank owners. Though Board staff has gone to great lengths to notify tank owners of their responsibility, there are a small number of owners who have not been in a position to know of the existence of this program. These owners are most often persons who lease their tanks to operators who use the tanks or operate a business using the property so leased. In a small number of cases where the operator has not paid the underground storage tank fee or refuses to transfer credit for the fee to the uninformed owner, the owner is liable to pay the fee and applicable interest and penalty to the Board. These charges can be substantial and are a hardship on these owners who have been unable to reimburse themselves for the liability which may have been accruing for several years.